

Before the
Federal Communications Commission
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

2001 OCT 15 P 5:13

In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
West Las Vegas Schools •)
Las Vegas, NM)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

RECEIVED

File No. SLD-196708

CC Docket No. 96-45

CC Docket No. 97-21 ✓

ORDER

Adopted: October 5, 2001

Released: October 10, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a waiver request filed by West Las Vegas Schools (West Las Vegas), Las Vegas, New Mexico, seeking review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ West Las Vegas requests a waiver of the January 19, 2000 FCC Form 471 filing deadline.² For the reasons set forth below, we grant West Las Vegas's waiver request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.⁴ The Administrator must post

¹ Letter from Orlando P. Espinoza, West Las Vegas Schools, to Federal Communications Commission, filed June 26, 2000 (Waiver Request).

² See *id.*

³ 47 C.F.R. §§ 54.502, 54.503.

⁴ 47 C.F.R. § 54.504(b)(1), (b)(3).

the FCC Form 470 on its website and the applicant is required to wait 28 days before making a commitment with a selected service provider.⁵ Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁶ The Commission's rules require that the applicant file a completed FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for "in-window" applicants.⁷

3. The last day of the filing window for Funding Year 3 was January 19, 2000. West Las Vegas contends that it mailed its FCC Form 471 via an overnight courier, Airborne Express, on January 18, 2000, which would ordinarily have resulted in the timely filing of its application on January 19.⁸ However, West Las Vegas explains that because it provided Airborne Express with an incorrect zip code for the SLD address that contained an extra digit, the courier was unable to deliver the application, and returned it to West Las Vegas on January 19, 2000.⁹ West Las Vegas asserts in sworn affidavits that it obtained the incorrect zip code from the SLD website.¹⁰ On January 19, 2000, West Las Vegas sent the application via Airborne Express with the proper zip code, and filed the application electronically on January 20, 2000, which was outside the filing window.¹¹

4. West Las Vegas filed a waiver request with SLD on April 3, 2000.¹² On June 16, 2000, SLD informed West Las Vegas that because the Commission's rules did not permit SLD to consider such requests, the applicant was required to submit any waiver requests to the Commission.¹³ West Las Vegas filed the instant waiver request with the Commission on June 26, 2000.¹⁴

⁵ 47 C.F.R. §§ 54.504(b)(3) and (4); § 54.511.

⁶ 47 C.F.R. § 54.504(c).

⁷ 47 C.F.R. §§ 54.504(c); 54.5079(c).

⁸ Request for Review at 2.

⁹ *Id.*

¹⁰ *Id.* at 4-5.

¹¹ *Id.*; FCC Form 471, West Las Vegas Schools, filed January 20, 2000.

¹² Letter from Orlando Espinoza, West Las Vegas Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed April 3, 2000.

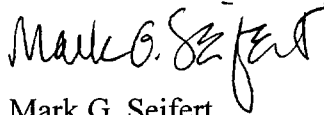
¹³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Orlando Espinoza, West Las Vegas Schools, dated June 16, 2000.

¹⁴ See Waiver Request.

5. The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.¹⁵ Absent special circumstances warranting a deviation from the general rule, waivers of filing deadlines should not be granted. We have reviewed the record before us, and ascertained that for a brief period of time in January, 2000, the zip code posted on the SLD website was incorrect. Thus, we find that SLD's posting of an incorrect zip code contributed to the untimely filing by West Las Vegas of its FCC Form 471. We therefore conclude that West Las Vegas has demonstrated special circumstances upon which to grant its waiver request.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Waiver Request filed by West Las Vegas Schools, Las Vegas, New Mexico, on June 26, 2000, IS GRANTED to the extent provide herein. We direct SLD to process West Las Vegas's FCC Form 471 as timely filed within the filing window.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau

¹⁵ 47 C.F.R. § 1.3; *See, e.g., Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990), ("Waiver is appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.").